

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

B. GOOD CAUSE STATEMENT

This action is likely to involve trade secrets, customer and pricing lists and

1 other valuable research, development, commercial, financial, technical and/or
2 proprietary information for which special protection from public disclosure and from
3 use for any purpose other than prosecution of this action is warranted. Such
4 confidential and proprietary materials and information consist of, among other
5 things, the assembly, development, and pricing of commercial and industrial lasers, the
6 manufacturing and testing processes of laser products at issue, relevant sales
7 information, confidential business or financial information, information regarding
8 confidential business practices, or other confidential research, development, or
9 commercial information, information regarding prior settlements of litigation, and
10 information otherwise generally unavailable to the public, or which may be privileged
11 or otherwise protected from disclosure under state or federal statutes, court rules, case
12 decisions, or common law.

13 Accordingly, to protect manufacturing trade secrets of laser development,
14 to protect competitively sensitive information regarding the development and internal
15 product testing of commercially sold laser products, to expedite the flow of information,
16 to facilitate the prompt resolution of disputes over confidentiality of discovery
17 materials, to adequately protect information the parties are entitled to keep confidential,
18 to ensure that the parties are permitted reasonable necessary uses of such material in
19 preparation for and in the conduct of trial, to address their handling at the end of the
20 litigation, and serve the ends of justice, a protective order for such information is
21 justified in this matter. It is the intent of the parties that information will not be
22 designated as confidential for tactical reasons and that nothing be so designated without
23 a good faith belief that it has been maintained in a confidential, non-public manner, and
24 there is good cause why it should not be part of the public record of this case.

25 **2. DEFINITIONS**

26 2.1 Action: *Chubb Insurance Japan, et al. v. Sirah Laser-und*
27 *Plasmatechnik GmbH, Inc.*, Case No. 2:23-cv-03210-MRA-AS
28

1 2.2 Challenging Party: a Party or Non-Party that challenges the designation
2 of information or items under this Order.

3 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
4 how it is generated, stored or maintained) or tangible things that qualify for protection
5 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
6 Statement.

7 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
8 their support staff).

9 2.5 Designating Party: a Party or Non-Party that designates information
10 or items that it produces in disclosures or in responses to discovery as
11 “CONFIDENTIAL.”

13 2.6 Disclosure or Discovery Material: all items or information, regardless
14 of the medium or manner in which it is generated, stored, or maintained (including,
15 among other things, testimony, transcripts, and tangible things), that are produced or
16 generated in disclosures or responses to discovery in this matter.

17 2.7 Expert: a person with specialized knowledge or experience in a
18 matter pertinent to the litigation who has been retained by a Party or its counsel to serve
19 as an expert witness or as a consultant in this Action.

21 2.8 House Counsel: attorneys who are employees of a party to this
22 Action. House Counsel does not include Outside Counsel of Record or any other
23 outside counsel.

24 2.9 Non-Party: any natural person, partnership, corporation, association,
25 or other legal entity not named as a Party to this action.

26 2.10 Outside Counsel of Record: attorneys who are not employees of a
27 party to this Action but are retained to represent or advise a party to this Action and have
28 appeared in this Action on behalf of that party or are affiliated with a law firm which

1 has appeared on behalf of that party, and includes support staff.

2 2.11 Party: any party to this Action, including all of its officers, directors,
3 employees, consultants, retained experts, and Outside Counsel of Record (and their
4 support staffs).

5 2.12 Producing Party: a Party or Non-Party that produces Disclosure
6 or Discovery Material in this Action.

7 2.13 Professional Vendors: persons or entities that provide litigation
8 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
9 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
10 their employees and subcontractors.

12 2.14 Protected Material: any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL.”

14 2.15 Receiving Party: a Party that receives Disclosure or Discovery
15 Material from a Producing Party.

17 3. SCOPE

18 The protections conferred by this Stipulation and Order cover not only
19 Protected Material (as defined above), but also (1) any information copied or extracted
20 from Protected Material; (2) all copies, excerpts, summaries, or
21 compilations of Protected Material; and (3) any testimony, conversations, or
22 presentations by Parties or their Counsel that might reveal Protected Material.

23 4. DURATION

24 Even after final disposition of this litigation, the confidentiality obligations
25 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
26 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
27 later of (1) dismissal of all claims and defenses in this Action, with or without prejudice;
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1 and (2) final judgment herein after the completion and exhaustion of all appeals,
2 rehearings, remands, trials, or reviews of this Action, including the time limits for filing
3 any motions or applications for extension of time pursuant to applicable law.

4 **DESIGNATING PROTECTED MATERIAL**

5 5.1 Exercise of Restraint and Care in Designating Material for
6 Protection. Each Party or Non-Party that designates information or items for protection
7 under this Order must take care to limit any such designation to specific material
8 that qualifies under the appropriate standards. The Designating Party must designate for
9 protection only those parts of material, documents, items, or oral or written
10 communications that qualify so that other portions of the material, documents, items, or
11 communications for which protection is not warranted are not swept unjustifiably within
12 the ambit of this Order.

13 Mass, indiscriminate, or routinized designations are prohibited.
14 Designations that are shown to be clearly unjustified or that have been made for an
15 improper purpose (e.g., to unnecessarily encumber the case development process or to
16 impose unnecessary expenses and burdens on other parties) may expose the
17 Designating Party to sanctions.

18 If it comes to a Designating Party's attention that information or items that
19 it designated for protection do not qualify for protection, that Designating Party must
20 promptly notify all other Parties that it is withdrawing the inapplicable designation.
21

22 5.2 Manner and Timing of Designations. Except as otherwise provided in
23 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated
24 or ordered, Disclosure or Discovery Material that qualifies for protection under this
25 Order must be clearly so designated before the material is disclosed or produced.

26 Designation in conformity with this Order requires:

27 (a) for information in documentary form (e.g., paper or electronic
28 documents, but excluding transcripts of depositions or other pretrial or trial

1 proceedings), that the Producing Party affix at a minimum, the legend
2 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page
3 that contains protected material. If only a portion or portions of the
4 material on a page qualifies for protection, the Producing Party also must
5 clearly identify the protected portion(s) (e.g., by making appropriate
6 markings in the margins).

7 A Party or Non-Party that makes original documents available for
8 inspection need not designate them for protection until after the inspecting Party has
9 indicated which documents it would like copied and produced. During the inspection
10 and before the designation, all of the material made available for inspection shall be
11 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents
12 it wants copied and produced, the Producing Party must determine which documents, or
13 portions thereof, qualify for protection under this Order. Then, before producing the
14 specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to
15 each page that contains Protected Material. If only a portion or portions of the material
16 on a page qualifies for protection, the Producing Party also must clearly identify the
17 protected portion(s) (e.g., by making appropriate markings in the margins).

18 (b) for testimony given in depositions that the Designating Party identify
19 the Disclosure or Discovery Material on the record, before the close of the deposition
20 all protected testimony.

21 (c) for information produced in some form other than documentary and
22 for any other tangible items, that the Producing Party affix in a prominent place on the
23 exterior of the container or containers in which the information is stored the legend
24 “CONFIDENTIAL.” If only a portion or portions of the information warrants
25 protection, the Producing Party, to the extent practicable, shall identify the protected
26 portion(s).

27 5.3 Inadvertent Failures to Designate If timely corrected, an inadvertent

failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the informal dispute resolution process set forth in the Court's Procedures and Schedules, see <http://www.cacd.uscourts.gov/honorable-alka-sagar>.

6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party
2 at a location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
7 only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
9 as employees of said Outside Counsel of Record to whom it is reasonably necessary to
10 disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel) of
12 the Receiving Party to whom disclosure is reasonably necessary for this Action;

13 (c) Experts (as defined in this Order) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (d) the court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional
19 Vendors to whom disclosure is reasonably necessary for this Action and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (g) the author or recipient of a document containing the information or
22 a custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses, and attorneys for witnesses, in
24 the Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will
26 not be permitted to keep any confidential information unless they sign the
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“Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected. If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be

1 construed as authorizing or encouraging a Receiving Party in this Action to disobey a
2 lawful directive from another court.

3 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
4 **THIS LITIGATION**

5 (a) The terms of this Order are applicable to information produced by a
6 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
7 produced by Non-Parties in connection with this litigation is protected by the remedies
8 and relief provided by this Order. Nothing in these provisions should be construed as
9 prohibiting a Non-Party from seeking additional protections.

10 (b) In the event that a Party is required, by a valid discovery request,
11 to produce a Non-Party's confidential information in its possession, and the Party is
12 subject to an agreement with the Non-Party not to produce the Non-Party's
13 confidential information, then the Party shall:

15 (1) promptly notify in writing the Requesting Party and the Non-
16 Party that some or all of the information requested is subject to a confidentiality
17 agreement with a Non-Party;

18 (2) promptly provide the Non-Party with a copy of the Stipulated
19 Protective Order in this Action, the relevant discovery request(s), and a reasonably
20 specific description of the information requested; and

21 (3) make the information requested available for inspection by the
22 Non-Party, if requested.

24 (c) If the Non-Party fails to seek a protective order from this court within
25 14 days of receiving the notice and accompanying information, the Receiving Party
26 may produce the Non-Party's confidential information responsive to the discovery
27 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not
28 produce any information in its possession or control that is subject to the

1 confidentiality agreement with the Non-Party before a determination by the court.
2 Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
3 seeking protection in this court of its Protected Material.

4 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

5 If a Receiving Party learns that, by inadvertence or otherwise, it has
6 disclosed Protected Material to any person or in any circumstance not authorized under
7 this Stipulated Protective Order, the Receiving Party must immediately (a) notify in
8 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to
9 retrieve all unauthorized copies of the Protected Material, (c) inform the person or
10 persons to whom unauthorized disclosures were made of all the terms of this Order,
11 and (d) request such person or persons to execute the "Acknowledgment and Agreement
12 to Be Bound" that is attached hereto as Exhibit A.

13 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
14 **PROTECTED MATERIAL**

15 When a Producing Party gives notice to Receiving Parties that certain
16 inadvertently produced material is subject to a claim of privilege or other protection, the
17 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
18 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
19 may be established in an e-discovery order that provides for production without prior
20 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
21 parties reach an agreement on the effect of disclosure of a communication or
22 information covered by the attorney-client privilege or work product protection, the
23 parties may incorporate their agreement in the stipulated protective order submitted to
24 the court.

25
26 **12. MISCELLANEOUS**

27 12.1 Right to Further Relief. Nothing in this Order abridges the right of
28 any person to seek its modification by the Court in the future.

1 12.2 Right to Assert Other Objections. By stipulating to the entry of
2 this Protective Order no Party waives any right it otherwise would have to object to
3 disclosing or producing any information or item on any ground not addressed in this
4 Stipulated Protective Order. Similarly, no Party waives any right to object on any
5 ground to use in evidence of any of the material covered by this Protective Order.

6 12.3 Filing Protected Material. A Party that seeks to file under seal
7 any Protected Material must comply with Civil Local Rule 79-5. Protected Material may
8 only be filed under seal pursuant to a court order authorizing the sealing of the
9 specific Protected Material at issue. If a Party's request to file Protected Material under
10 seal is denied by the court, then the Receiving Party may file the information in the
11 public record unless otherwise instructed by the court.

12 13. FINAL DISPOSITION

13 After the final disposition of this Action, as defined in paragraph 4, within
14 60 days of a written request by the Designating Party, each Receiving Party must return
15 all Protected Material to the Producing Party or destroy such material. As used in this
16 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
17 summaries, and any other format reproducing or capturing any of the Protected
18 Material. Whether the Protected Material is returned or destroyed, the Receiving
19 Party must submit a written certification to the Producing Party (and, if not the same
20 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
21 category, where appropriate) all the Protected Material that was returned or destroyed
22 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
23 compilations, summaries or any other format reproducing or capturing any of the
24 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
25 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
26 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
27 attorney work product, and consultant and expert work product, even if such materials
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1 contain Protected Material. Any such archival copies that contain or constitute Protected
2 Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

3 14. Any violation of this Order may be punished by any and all appropriate measures
4 including, without limitation, contempt proceedings and/or monetary sanctions.

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
6

7 Date: March 19, 2024
8

CLINTON & CLINTON

9 */s/ John F. McDevitt, Jr.*
10 John F. McDevitt, Jr., Esq.

11 *Attorney for Plaintiffs,*
12

13 **ACE AMERICAN INSURANCE COMPANY**
14 **CHUBB INSURANCE JAPAN**

15 WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP
16

17 */s/ Matthew F. Vaccaro*
18 Matthew F. Vaccaro, Esq.

19 *Attorney for Defendant,*
20

21 **SIRAH LASER-UND PLASMATECHNIK GMBH**

22 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
23

24 DATED: March 19, 2024
25

26 _____
27 _____
28 Honorable Alka Sagar
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of *Chubb Insurance Japan, et al. v. Sirah Laser-und Plasmatechnik GmbH, Inc.*, Case No. 2:23-cv-03210-MRA(ASx). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____